HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.11467 of 1998

Date: 12-06-2006

Between :

K. Ganga Ram

… Petitioner/s

and

The District Collector (CS),

Nizamabad and others.

…Respondent/s

HON'BLE SRI JUSTICE C.V. RAMULU

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ORDER :

This writ petition is filed by the petitioner being aggrieved by the order passed in proceedings No.B3/100/97, dated 12-2-1997 by the Revenue Divisional Officer, Nizamabad, cancelling the Fair Price Shop dealership and authorization of the petitioner against Shop No.60, Nizamabad (Urban), as confirmed by the Joint Collector - appellate authority in his proceedings dated 20-5-1997, and further confirmed by the District Collector - revisional authority, in his proceedings dated 16-3-1998.

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner has been appointed as Fair Price Shop dealer of Shop No.60, Nizamabad (Urban). It appears, the respondent authorities have come to know that the petitioner is not running the shop by himself and a benamidar one Gali Sri Ramulu was appointed and he was running the shop. In this regard, initially a show cause notice was issued on 27-11-1996 and the petitioner has submitted his explanation for the same on 25-1-1997, but no action was taken. It appears, before the explanation could be submitted on 25-1-1997 against the earlier show cause notice, a second show cause notice was issued on 14-1-1997 for the very same allegations. Even for that also the petitioner has submitted his explanation. Thereafter, final orders were passed on 12-2-1997 stating that G. Sri Ramulu, benamidar himself gave a statement on 12-1-1997 stating that the petitioner is a Scheduled Tribe person and he had financed the shop, therefore, he is running the shop in his absence. The said Sriramulu @ G.Ram is not claimed that he is the Gumastha of the petitioner. Except this, there is no other cogent and reliable material available on record to show that the petitioner was running the shop with the benamidar. Whereas the petitioner repeatedly gave an explanation stating that he is a social worker and in his absence, he has entrusted the matter to the said Sriramulu to look after the distribution, so that it may not cause inconvenience to the cardholders. Neither this explanation was properly considered and enquired into nor any finding is recorded. Except the purported statement given by the said Sriramulu on

12-1-1997, no other evidence, either oral or documentary, is available to show that the petitioner has been running the shop through benamidar and the petitioner is not physically running the shop or that he has not taken delivery of the goods from the Mandal level Stock Point at any point of time. Further, the respondents have also made a few feeble charges and concluded that the petitioner's authorization is liable to be cancelled and accordingly cancelled the authorisation, which was upheld by the Joint Collector and the District Collector, who are the appellate authority and revisional authority respectively.

In that view of the matter, I am of the opinion that the orders impugned are not supported by any cogent and valid reasons for canceling the authorization of the petitioner on the ground that the petitioner was not running the shop and some unauthorized person was running the shop. Therefore, the impugned order dated 12-2-1997, as confirmed by the Joint Collector – appellate authority by order dated 20-5-1997, and further confirmed by the District Collector – revisional authority by order dated 16-3-1998 are liable to be set aside. Accordingly, the impugned orders are set aside and the matter is remitted to the Revenue Divisional Officer, Nizamabad, for conducting the enquiry afresh, after giving opportunity to the petitioner to participate in the enquiry and lead evidence, both oral and documentary, and pass appropriate orders in accordance with law, within a period of six (6) months from the date of receipt of a copy of this order. Till such time, the status quo obtaining as on today shall be continued.

The writ petition is accordingly disposed of. No costs.

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(C.V. RAMULU, J)

12-06-2006.

Msr.

HON’BLE SRI JUSTICE C.V. RAMULU

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(Msr)